

**Minutes of the
REGULAR MEETING
Troy CITY COUNCIL
November 1, 2012**

The meeting was called to order at 7:00 PM by City Council President Kopka.

The Pledge of Allegiance was led by Anasha Cummings.

The roll call being called, the following answered to their names: Council members Mark McGrath, Dean Bodnar, Bob Doherty, Ken Zalewski, Gary Galuski, Nina Nichols, Rodney Wiltshire, and President Lynn Kopka.

Also present were Mayor Lou Rosamilia, Deputy Mayor Peter Ryan, Corporation Counsel Ian Silverman, Counsel to the Council Joe Liccardi, and other Department Heads. The meeting was attended by approximately 49 members of the public.

GOOD NEWS AGENDA: President Lynn Kopka recognized the DPW workers and thanked them for their excellent efforts during the many city events of the past summer season.

PUBLIC COMMENT PERIOD:

1. Robert Charles Cox of Tibbits Avenue spoke about his experiences at the Lansingburgh Veterans' Club and shared an article from the Troy Record Dec. 19, 2011 entitled "Groups Aim to Keep Cox out of 'Burgh'".
2. Frank Lashway of Sixth Avenue complained that he has been the victim of harassment by the Police and the Code Enforcement Department.
3. Pastor Willie Bacote expressed concerns about the night patrol of the TPD in North Central. He invited the Council to attend a neighborhood meeting on November 15.
4. Liz Poltmann of 2nd Avenue spoke in support of the Climate Smart Community Resolution.
5. Robin Linton of Second Avenue reported on her treatment by the police on the occasion of her arrest and complained that they had abused their authority.
6. Emily Rosier of Mann Avenue spoke in support of the Climate Smart Community Resolution.
7. Samara Ceccucci asked the Council for special consideration for settlement of her claim against the City related to the April 19 accident involving a police car.
8. Sam Chiappone of Ida Street presented a petition signed by 80 of his neighbors asking for a new approach and greater police presence to combat the blatantly obvious drug dealing and rampant crime in his

neighborhood. He noted that it does not happen when the police are present.

9. Joe Chenrille, of 117th Street spoke against changing the insurance carrier for the retirees' health insurance. He was concerned that the doctors list and prescription benefit might change.

10. Neil Daws of 4th Avenue spoke against changing the carrier for the retiree's insurance. He said that the retirees do not understand their new policy and they do not want to give up any benefits.

11. Anasha Cummings of Congress Street spoke in favor of the Climate Smart Community Resolution.

12. Charlene Dobert of Stow Ave. spoke in favor of Ordinance #10.

13. Debra Pope-Garnett of President Street spoke about the particular hardships of living in her neighborhood.

14. Julia Alsarraf read a letter from Abby Lublin of 377 Second Street in favor of Climate Smart Community Resolution.

CONSIDERATION OF ORDINANCES:

1. Ordinance Approving Settlement of Certiorari Proceedings Instituted by Various Property Owners Located in the City of Troy and on the Assessment Roll of the City of Troy. (University Partners, LLC)

Approved by unanimous vote

2. Ordinance Approving Settlement of Certiorari Proceedings Instituted by Various Property Owners Located in the City of Troy and on the Assessment Roll of the City of Troy. (Robal Associates, LLC)

Approved by unanimous vote

3. Ordinance Authorizing and Directing Sale by the Private Sale Method of City-Owned Real Property (343 First Street).

Approved by unanimous vote

4. Ordinance Authorizing and Directing Sale by the Private Sale Method of City-Owned Real Property (272 9th Street).

Approved by unanimous vote

5. Ordinance Authorizing and Directing Sale by the Private Sale Method of City-Owned Real Property (716 Pawling Avenue).

Approved by unanimous vote

6. Ordinance Amending the 2012 City Budget to Transfer Funds Within the General Fund Budget Lines.

Approved by unanimous vote

7. Ordinance Amending the 2012 City Budget to Accept Funds from the US Department of Justice Office of Justice Assistance for the Purpose of Appropriating Expenditures as Defined in the Aforesaid Grant Agreement.
Approved by unanimous vote
8. Ordinance Amending the 2012 City Budget to Accept Funds from the State Education Department for the Appropriating Expenditures for City's Records Retention Management.
Approved by unanimous vote
9. Ordinance Declaring Certain City Owned Property as Surplus and Directing the Comptroller to Dispose of Said Property.
Approved by unanimous vote
10. Ordinance Authorizing and Directing Settlement of Claim 2012-29.
Approved by unanimous vote
11. Ordinance Authorizing and Directing Settlement of Claim 2012-19.
WITHDRAWN
12. Ordinance Amending the 2012 City Budget to Transfer Funds within the General Fund Budget Lines (Media Alliance Settlement).
Approved by vote of 6 yes and 2 no

CONSIDERATION OF RESOLUTIONS:

1. Resolution Appointing Commissioners of Deeds for the City of Troy. (Council President Kopka) (At the Request of the Administration)
Approved by unanimous vote
2. Resolution Authorizing the Mayor or his Designee to Execute the Tactical Team Joint Services Agreement with the Town of Colonie. (Council President Kopka) (At the Request of the Administration)
Approved by unanimous vote
3. Resolution Determining that Proposed Action is a Type II Action for Purposes of the New York State Environmental Quality Review Act. (Council President Kopka) (At the Request of the Administration)
Approved by unanimous vote

4. Bond Resolution No. 4 of 2012 of the City of Troy, New York, Authorizing the Issuance of \$7,700,000 Serial Bonds to Finance the Cost of the Reconstruction of Various City Improvements. (Council President Kopka) (At the Request of the Administration)
Approved by unanimous vote
5. Resolution Authorizing the Mayor or his Designee to Enter into a Contract with Benetech for the Purpose of Changing the Health Benefits for Certain Employees (Retirees) from BlueShield PPO 898 to Empire Mediblu Freedom PPO for the Year 2013. (Council President Kopka) (At the Request of the Administration)
Galuski motioned for executrive session and Nichols seconded. Executive session began at 8:46. Council agreed that more information must be made available. Executive session ended at 9:00 Vote postponed pending completion of informational sessions.
6. A Resolution Renaming a Portion of Sixth Avenue between Congress and Ferry Streets as Walter F. Uccellini Avenue. (Council President Kopka) (At the Request of the Administration)
Approved by unanimous vote
7. Resolution Supporting Submission of a Proposal to the New York State Energy Research and Development Authority under the New York Sun Competitive Photovoltaic (PV) Program (At the Request of Council Member Wiltshire).
Approved by unanimous vote
8. Resolution Recommending the Incorporation of Climate smart Practices in Community Planning in the City of Troy, New York (At the Request of Council Members Nichols and Wiltshire).
Resolution was amended to include the phrase “By March of 2013”.
Amended resolution approved by unanimous vote
9. Resolution Recommending a Moratorium on Hydraulic Fracturing and Petitioning the New York State Assembly to Repeal and Amend Appropriate State Laws to Protect the Rights of Landowners; to Regulate the Practice of Land-Leasing for the Purpose of Gas Drilling; to Establish a Compensation and Remediation Fund to Address Unforeseen Damages to Landowners and Municipalities as a Result of Activity Related to Gas-Drilling; and to Urge Support for the Frac and Breathe Acts (At the Request of Council Member Wiltshire).
Attached amendment was motioned by Wiltshire and passed unanimously. Amended resolution approved by a vote of 6 yes and 2 no.

RESOLUTION RECOMMENDING A MORATORIUM ON HYDRAULIC FRACTURING AND PETITIONING THE NEW YORK STATE LEGISLATURE TO REPEAL AND AMEND APPROPRIATE STATE LAWS TO PROTECT THE RIGHTS OF LANDOWNERS; TO REGULATE THE PRACTICE OF LAND-LEASING FOR THE PURPOSE OF GAS DRILLING; TO ESTABLISH A COMPENSATION AND REMEDIATION FUND TO ADDRESS UNFORSEEN DAMAGES TO LANDOWNERS AND MUNICIPALITIES AS A RESULT OF ACTIVITY RELATED TO GAS-DRILLING; AND TO URGE SUPPORT FOR THE FRAC AND BREATHE ACTS.

WHEREAS, gas-drilling and development in New York State includes high volume hydraulic fracturing, also known as hydrofracking or fracking, that is a technology for obtaining natural gas and is proposed for use in areas in Central New York and beyond, and

WHEREAS, high volume hydraulic-fracturing involves pumping large quantities of water additives (on average 4.5 million gallons per well) at extremely high pressures into deep vertical wells, fracturing the rock and injecting sand into the cracks to release the natural gas, and

WHEREAS, the hydraulic fracturing (fracking) for natural gas involves the use of chemicals and hazardous materials during construction, drilling, hydraulic fracturing, gas production and delivery, well maintenance, and workover operations; and

WHEREAS, on September 30, 2009, the NYS Department of Environmental Conservation issued a Draft Generic Environmental Impact Statement (DSGEIS) on high volume hydraulic-fracturing with horizontal drilling as proposed for the Marcellus Shale, and more than 14,000 comments on the DSGEIS were submitted, many pointing out significant defects and a reliance on incomplete or flawed studies, and

WHEREAS, New Yorkers' concerns include ensuring that the NYS Department of Environmental Conservation is properly staffed and able to propose sufficient regulations, to protect our natural resources, our groundwater, our infrastructure, and prevent permanent damage to our environment, and

WHEREAS, recent serious accidents at Marcellus wells in Pennsylvania and West Virginia that utilized high volume hydraulic fracturing, accidents in West Virginia's coal mines and at the drilling rig in the Gulf of Mexico highlight the dangers inherent in extractive mining, with particular concern about the possible role of methane (the main component in natural gas) in these events, and

WHEREAS, based on experience in other states where this drilling has been underway for years, the concerns include but are not limited to: air pollution (ground level ozone and smog) at and near drilling sites; threats to groundwater

and surface water supplies from accidents on the surface, as well as subsurface failures of casings and the hydrofracking process itself; depletion and degradation of New York's lakes, rivers, streams and wetlands; long-term consequences from infusion of potentially toxic chemicals into the ground; dangers from drill cuttings and flow-back water, which may be unsuitable and unsafe for disposal in New York's landfills and wastewater treatment plants; deleterious effects of noise and light from 24/7 drilling on the natural habitat of our region and our residents' health and quality of life; significant damage to roads and bridges, resulting in the loss of mobility and economic activity even if drilling companies eventually rebuild the damaged infrastructure; fragmentation of our landscape, with loss of vital habitat for wildlife and significant increase in "edge" habitats which stimulate growth of invasive species; damage to existing economic sectors, including agriculture, hunting and fishing, tourism, and higher education; social disruption, including increase in crime rates and demand for emergency medical services, and greater disparity between high- and low-income households; economic costs to residents and local governments, including higher inflation, increased pressure on housing and consequent homelessness, and precipitous drop in property values, and

WHEREAS, there are many questions about potential environmental risk to land and to water aquifers as a result of high volume hydraulic-fracturing and related gas-drilling activity, and

WHEREAS, use of these hydraulic fracturing mixes exposed adjacent land and surface waters to the risk of contamination through open pit storage, truck transport on roadways, and activities during well development; and

WHEREAS, the environmental and health concerns including the potential contamination of aquifers and fresh water supply, the use of massive quantities of water, the disposal of the hydro-fracturing fluids, the release of chemicals used in the process, and the impact upon local landscapes are rarely disclosed by gas companies and their agents in the course of securing a lease, and

WHEREAS, wastewater from fracking can contain radioactive elements and has been discharged into rivers that supply drinking water for millions, according to the New York Times; and

WHEREAS, the pollution of water caused by fracking threatens the long term economic well-being of communities, as businesses and consumers depend on clean drinking water; and

WHEREAS, rigorous scientific investigations of these issues are just beginning, including a study of the full life-cycle emission of shale gas, the social and economic costs and benefits of the industry, and the federal Environmental Protection Agency's study of potential relationships between hydraulic-fracturing and water resources, and

WHEREAS, in 2005, as part of the federal Energy Policy Act and over objections of health care, scientific, environmental, and conservation communities, regulation of hydraulic fracturing fluids under the Safe Drinking Water Act by the Environmental Protection Agency was exempted, thereby allowing oil and gas companies to use these substances without federal oversight or standards; and

WHEREAS, the Fracturing Responsibility and Awareness of Chemicals Act ("FRAC Act") [H.R. 2766; S. 1215], which is currently pending in Congress, would repeal the fracking exemption to the Safe Drinking Water Act and require disclosure of chemicals used in fracking; and

WHEREAS, the Bringing Reductions to Energy's Airborne Toxic Health Effects Act ("BREATHE Act") [H.R. 1204], which is currently pending in Congress would repeal the exception to the Clean Air Act for aggregation of emissions from oil and gas development sources; and

WHEREAS, there is a law in New York State, "Compulsory Integration" [NY Code - Section 23-0901], which allows the gas industry an eminent domain, and

WHEREAS, there is an effort on the part of natural gas development companies to lock up rights to drilling in areas of their own determination referred to as "Spacing Units," and

WHEREAS, the Compulsory Integration Law allows gas companies and their agents the ability to take control of land against the will of landowners who do not wish to participate or be involved with natural gas development on or under their property, and

WHEREAS, the Compulsory Integration Law permits gas companies and their agents to use coercive methods in obtaining leases under the threat of compulsory integration, whereby landowners who fail to sign a lease will have their land included in the gas company "Spacing Unit" against their will and be compensated at a lesser amount than the other lessees, and

WHEREAS, concerns have been raised about the potential of high volume hydraulic-fracturing to pollute drinking water through leaks, accidents, spills or by proposals to inject unknown contaminants underground, and

WHEREAS, issues have been raised about the requirements and incentives for the gas drilling industry to restore the land and clean up any waste, creating questions about the possible impact upon our local landscape, the potential impact upon the health of our residents, and damage to private property, and

WHEREAS, protection of water supplies and resources is better accomplished by prevention of contamination and environmental degradation, rather than attempting to clean up contamination and restore degraded environments after the fact.

WHEREAS, the oil and gas industry is not required by federal law to publicly disclose chemical formulas of hydraulic fracturing fluids so that this information is publicly available for health and safety purposes; and

WHEREAS, it is acknowledged that gas drilling, including high volume hydraulic-fracturing and similar operations are governed by the rules and regulations of the State of New York and that it is the responsibility of the State of New York to protect its citizens, and

WHEREAS, it is the desire of the Troy City Council for the New York State Senate and the New York State Assembly to amend appropriate state laws, to address the practice of gas drilling, including high volume hydraulic-fracturing known as hydrofracking.

NOW THEREFORE BE IT RESOLVED, that the City of Troy City Council recommends the following changes be adopted by the New York State Senate and State Assembly:

1. Repeal Compulsory Integration.
2. Enact a Landowner's Bill of Rights requiring gas companies and their representatives (Landmen) to disclose the true nature of gas drilling, including hydrofracking, and the liabilities which landowners may face as follows:
 - a. A detailed description and diagram of the type of well, including vertical and horizontal distance proposed.
 - b. A list of the chemicals which are used in the process of high-pressure drilling, or created as by products, or which may be released from deep within the rock below.
 - c. A thorough description of the waste created by the drilling, and illustration of how it will be stored on the land.
 - d. An estimate of the number and type of trucks, and other equipment, which will travel over both the private land and public roads, with tonnage calculation.

- e. A list of possible negative environmental impacts, including gas contamination of water sources
- f. A thorough explanation of Compulsory Integration, which educates neighboring landowners of their rights concerning how mineral resources will be removed from under their lands.
- g. A thorough explanation about the value of base-line testing for wells and springs prior to gas grilling.

3. Establish a Compensation and Remediation fund, funded by the oil and gas industry extraction companies to compensate landowners and communities who suffer losses such as property damage, water purity damage, and property tax losses, as a result of hydrofracking.

BE IT FURTHER RESOLVED, that the City of Troy urges New York State to support the FRAC Act and BREATHE Act, and

BE IT FURTHER RESOLVED, that the City of Troy insists that New York State not issue permits to hydraulic-fracturing operations pending further independent scientific assessments, including the EPA study, and

BE IT ALSO FURTHER RESOLVED, that the Clerk of the City of Troy is hereby directed to transmit a copy of this resolution to the New York State Senate and the New York State Assembly representatives for the City of Troy and requests them to enact legislation to accomplish the goals of the resolution.

ADJOURNMENT

Council Member McGrath moved for a adjournment and the meeting was adjourned at 9:18 PM.

A True record of the Troy City Council Minutes of November 1, 2012.

**Karla Guerrieri
Troy City Clerk**